

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. 5:10-CT-3082-FL

JOHNNY LEE LEONARD,

Plaintiff,

v.

NORTH CAROLINA DEPARTMENT  
OF CORRECTION, et al.,

Defendants.

ORDER

Plaintiff Johnny Lee Leonard, a state inmate, filed this action pursuant to 42 U.S.C. § 1983. The matter is before the court for frivolity review pursuant to 28 U.S.C. § 1915. Also before the court is plaintiff's motion for a preliminary injunction (DE # 3). These matters are ripe for adjudication.

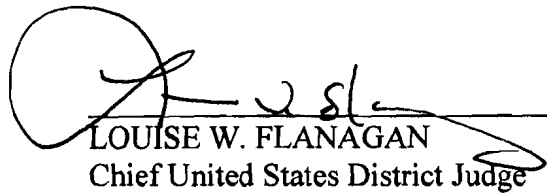
The movant must establish the following to obtain a preliminary injunction: (1) that he is likely to succeed on the merits; (2) that he is likely to suffer irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in his favor; and (4) that an injunction is in the public interest. Winter v. Natural Resources Defense Council, Inc., 129 S.Ct. 365, 374 (2008). Plaintiff has failed to demonstrate irreparable harm, or any of the other requirements necessary to obtain injunctive relief. Therefore, plaintiff's motion is DENIED.

The court now turns to its frivolity determination. Section 1915 provides that courts shall review complaints in which prisoners seek relief from a governmental entity or officer and dismiss such complaints when they are "frivolous." 28 U.S.C. § 1915(e)(2)(B)(i). The court finds that

plaintiff's claims are not clearly frivolous, and that he is allowed to proceed with this action.

In sum, plaintiff is ALLOWED to proceed with this action. The Clerk of Court is DIRECTED to issue a separate order of investigation. Plaintiff's motion for a preliminary injunction (DE # 3) is DENIED.

SO ORDERED, this the 14<sup>th</sup> day of September, 2010.



LOUISE W. FLANAGAN  
Chief United States District Judge